

Message Text

CONFIDENTIAL

PAGE 01 CARACA 11909 172123Z

64

ACTION SS-15

INFO OCT-01 ARA-06 ISO-00 MC-02 AID-05 ACDA-05 AS-01 EB-07

NRC-05 NSAE-00 TRSE-00 ERDA-05 CIAE-00 COME-00 PM-04

H-02 INR-07 L-03 NSC-05 PA-01 PRS-01 SP-02 USIA-06

/083 W

----- 049000

P R 172045Z NOV 75

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC PRIORITY 919

INFO SECDEF WASH DC

USCINCSO QUARRY HTS CZ

C O N F I D E N T I A L CARACAS 11909

EO 11652: GDS

TAGS: MASS VE

SUBJ: MUNITIONS CONTROL AND AGENTS FEES

REF: STATE 255260

BEGIN SUMMARY: USE OF LOCAL AGENTS TO PROMOTE ARMS SALES TO GOV IS
COMMON PRACTICE IN VENEZUELA, AND THERE IS NO LAW REQUIRING DISCLOSURE

OF AGENTS'S FEES. VENEZUELAN MINISTRY OF DEFENSE (MOD) HAS ASKED
U.S. MILGP FOR FURTHER INFORMATION IN WRITING ON CONTEMPLATED U.S.
REGULATIONS ON DISCLOSURE OF FEES, SO THAT MOD CAN OBTAIN LEGAL
OPINION. BEFORE SENDING WRITTEN COMMUNICATION TO MOD, EMBASSY WOULD
LIKE TO KNOW: (A) WHETHER WE SHOULD OFFICIALLY NOTIFY MOD OF RECENT
DOD REVISION OF ARMED SERVICES PROCUREMENT REGULATIONS IN CONNECTION
WITH FMS SALES; AND (B) WHETHER WE SHOULD AT THIS STAGE FORMALLY SEEK
A LEGAL OPINION FROM MOD ON GOV REACTION TO PROPOSED REVISION OF
U.S. ARMS REGULATIONS AFFECTING COMMERCIAL SALES. END SUMMARY

1. U.S. AND THIRD COUNTRY ARMS MANUFACTURERS TRADITIONALLY HAVE
USED LOCAL AGENTS TO PROMOTE AND FACILITATE COMMERCIAL ARMS SALES
TO THE VENEZUELAN GOVERNMENT. WHILE THE EMBASSY IS NOT CONVERSANT
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CARACA 11909 172123Z

WITH THE DETAILED OPERATIONS OF LOCAL AGENTS, ARMS MANUFACTURERS

WISHING TO MAKE SALES IN VENEZUELA USUALLY DEPEND UPON THESE AGENTS TO INFLUENCE THE DECISIONS OF WELL-PLACED VENEZUELAN MILITARY OFFICIALS. THESE OFFICIALS AND AGENTS THUS HAVE A CLOSE RELATIONSHIP FROM WHICH BOTH CAN OBTAIN SIGNIFICANT BENEFITS.

2. THE DIRECTOR GENERAL OF THE COMPTROLLER GENERAL'S OFFICE INFORMED AN EMBOFF RECENTLY THAT THERE ARE NO GOV LAWS OR REGULATIONS REQUIRING

DISCLOSURE OF AGENTS' FEES IN ARMS TRANSACTIONS. CURRENT LAWS HERE REQUIRE THAT THE COMPTROLLER GENERAL OFFER TO A COMMITTEE CONSISTING OF FIVE MINISTERS (OF INTERIOR, FOREIGN AFFAIRS, DEFENSE, FINANCE, AND JUSTICE) ANY EXPENDITURES "INVOLVING THE DEFENSE AND SECURITY OF THE STATE." IF THE MINISTERS CONSIDER THAT A CONTRACT IN THIS CATEGORY REQUIRES FURTHER INVESTIGATION PRIOR TO APPROVAL, THEN THE RESPONSIBLE MINISTER CONDUCTS SUCH AN INVESTIGATION WITHIN HIS OWN MINISTRY. IN THE CASE OF ARMS PURCHASES, THEREFORE, THE MINISTER OF DEFENSE BEARS BOTH THE AUTHORITY AND RESPONSIBILITY FOR REGULATING CONTRACTS.

3. MOD OFFICIALS ALSO CONFIRMED TO THE U.S. MILGP COMMANDER THAT THERE IS NO LAW OR MOD REGULATION REQUIRING DISCLOSURE OF AGENTS' FEES. OFFICERS IN THE MOD'S LOGISTICS DIVISION (J-4), UP TO AND INCLUDING THE BRIGADIER GENERAL IN CHARGE OF THAT DIVISION, HAVE TOLD THE MILGP COMMANDER THAT THEY WOULD BE OPPOSED TO SUCH A REGULATION. THEY REFERRED THIS MATTER TO THE MOD'S CHIEF OF STAFF, WHO TOLD THE MILGP COMMANDER ON NOV 12 THAT IF HE WOULD SEND AN OFFICIAL REQUEST TO THE MINISTRY, MOD'S LEGAL DIVISION WOULD PROVIDE AN OPINION ON THE GOV'S RESPONSE TO THE PROPOSED REVISION OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR). MOD WOULD NEED SEVERAL WEEKS TO PREPARE SUCH A LEGAL OPINION.

4. THE EMBASSY WOULD APPRECIATE GUIDANCE ON THE FOLLOWING POINTS:

A. SHOULD WE OFFICIALLY NOTIFY MOD OF THE RECENT REVISION OF DOD'S ARMED SERVICES PROCUREMENT REGULATIONS TO COVER AGENTS' FEES UNDER THE FMS ACT (PARA 3, REFTTEL) AND ASK WHETHER THE GOV WISHES TO BE NOTIFIED OF AGENTS' FEES AS PROVIDED IN THOSE REVISED REGULATIONS?

B. SHOULD WE AT THIS STAGE FORMALLY SEEK MOD'S REACTION TO THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 CARACA 11909 172123Z

PROPOSED REVISION OF THE ITAR AND, IF SO, ARE THE TERMS OF THAT PROPOSAL STILL THE SAME AS DESCRIBED IN PARA 4, REFTTEL?

5. THE EMBASSY FULLY SHARES WASHINGTON'S DESIRE TO DETER IMPROPER PRACTICES ABROAD INVOLVING U.S. ARMS MANUFACTURERS. AT THE SAME TIME, WE SUGGEST THAT IF WE ARE AUTHORIZED TO SEND AN OFFICIAL COMMUNICATION TO MOD, WE ALSO ASK WHETHER MOD WOULD APPLY TO ARMS SUPPLIERS FROM ALL COUNTRIES ANY REQUEST FOR DISCLOSURE OF FEES.

UNILATERAL DISCLOSURE OF AGENTS' FEES BY U.S. FIRMS ENGAGED IN
ARMS SALES TO VENEZUELA COULD PLACE THOSE FIRMS AT A COMPETITIVE
DISADVANTAGE AND INCREASE THE RISK TO THE U.S. OF SENSATIONALIST
TREATMENT OF AGENTS' FEES BY UNFRIENDLY GOV OFFICIALS OR POLITICIANS.
THE EMBASSY HOPES THAT WHILE THIS PROPOSED ITAR AMENDMENT IS UNDER
REVIEW IN WASHINGTON, CONSIDERATION WILL BE GIVEN TO REQUIRING
U.S. ARMS MANUFACTURERS TO DISCLOSE CONTINGENT FEES TO PURCHASING
GOVERNMENTS ONLY IF THOSE TOVERNMENTS LEVY THE SAME REQUIREMENT
ON ARMS MANUFACTURERS FROM ALL COUNTRIES.
SHLAUDEMAN

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ARMS, PROCUREMENT, SALES, LAW, WAGES, MUNITIONS CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 NOV 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975CARACA11909
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750400-0242
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751137/aaaabhcs.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 STATE 255260
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 15 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 SEP 2003 by RowellE0>; APPROVED <30 OCT 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MUNITIONS CONTROL AND AGENTS FEES
TAGS: MASS, VE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006